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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,353	07/05/2005	Mattias Nystrom	38148	9063

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EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/532,353	Applicant(s) NYSTROM ET AL.	
	Examiner Ghassem Alie	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/22/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the levers or buttons and related components secured to the handle section (16) via a supporting section (20) as set forth in claim 5, the levers or the buttons that are secured to handle section 916) by a keyhole-shaped opening as set forth in claim 7, and a lever or leavers or button or buttons and related components turning around the separate metallic or plastic pin (31) as set forth in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the connection between the wheel 30 and the lever 12 for transforming the movement the lever 12 to the throttle. See page 6, lines 6-9 in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: “33” in Fig. 1.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “22” has been used to designate both a lever and openings. See Fig. 2.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of

the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The specification is objected to under 37 CFR 1.71 because it fails to teach two levers or two buttons. It should be noted that there is only a lever 12 attached to the handle and a safety button 13 attached to the handle 11. See Fig. 2 in the instant application. The specification also fails teach how the line wheel 30 is the handle section 16 transforms the movement in the lever 12. See page 6, lines 6-9. In fact, it is not clear how the line wheel 30 is connected to the lever 12. In addition, the specification fails to teach a button or a lever is connected to the pin 31 of the line wheel. It is not clear how the lever or the button is turn around the pin 31. See claim 9.

It is noted that applicant is disclosing three different alternatives for securing components in the handle section 16. It is assumed that applicant is disclosing three separate

connections for securing the lever 12, the button 13, and the line wheel 31 to the handle section 16. It should be noted that these three separate connections are not an alternative for each connection. Fig. 2 shows the three different connections. If the connections are alternative connections for the lever, button, and line wheel, then each connection should be illustrated in a separate figure. In this case, there are three different species disclosed. Therefore, a restriction requirement would be considered. If each separate connection is not an alternative to other connections, then the phrases “the second alternative” and “the third alternative” should be deleted from the specification. Otherwise, applicant has to provide a separate figure for each alternative connection and only claim the structure of one of the alternative connection or the species.

6. The disclosure is objected to because of the following informalities: “circle-shaped edge (34)” should be --circular-shaped edge (34). See page 5, lines 29-34 and page 6, line 1 in the specification. In addition, “a hand held engine” should be --a handheld engine--. See the title and line 2 in the specification. Appropriate correction is required.

Claim Objections

7. Claims 1, 2, 5, 7, 8, and 10 are objected to because of the following informalities: in claim 1, lines 1-2, “a hand held engine” should be --a handheld engine--. In claim 1, lines 2-3, “at least a lever or button” should be --at least a lever or a button--. In claim 1, lines 9-10, “said handle sections (15, 16) are permanently joined to each other” should be --said handle sections (15, 16) are permanently joined together--. In claim 2, lines 2-4, “the handle (11) comprises two handle sections (15, 16) and that the handle (11) is provided with a lever (12) and a button (13)” should be --the handle (11) comprises two handle sections (15, 16), a lever

(12), and a button (13)--. In claims 5, 7, and 9, "the lever or levers and/or button or buttons" should be --the lever or the button--. In claim 8, line 3, "circle-shaped edge" should be --circular-shaped edge--. In claim 8, lines 4-7, "so that when the handle sections are joined will the end of the pin (25) be placed so that the protruding circle-shaped edge (34) supports the pin (25) when exposed to high loads" should be -- so that when the handle sections are joined together one end of the pin (25) is placed inside the protruding circular-shaped edge (34) so that the protruding circular-shaped edge supports the pin (25) when the pin (25) is subjected to high loads--. In claim 10, lines 3-7, "so that when the handle sections are joined will the end of the separate metallic or plastic pin (25) be placed so that the protruding circle-shaped edge (34) supports the separate metallic or plastic pin (25) when exposed to high loads" should be --so that when the handle sections are joined together one end of the separate metallic or plastic pin (25) is placed inside the circular-shaped edge (34) so that the protruding circular-shaped edge (34) supports the separate metallic or plastic pin (25) when the pin (25) is subjected to high loads--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, "said lever or button is secured in only one of the handle sections (16) so that the function of the lever or button is independent of the handle sections (15, 16) position in relation to each other" is confusing. It is not clear

how the function of the handle sections and the lever or the button can be independent from one another while the lever or the button is secured at least to one of the handle sections. It should be noted that the lever or the button is also supported by the other handle section (15). Therefore, it is not clear how the function of the lever or the handle is independent from the handle. Regarding claim 4, lines 3-7, “a lever for controlling the power or the engine, and engine and a safety button (13) that stops the operator from increasing the power of the engine if the operator not is holding his hand around the handle (11) and the safety button (13) pressed” is confusing. It is not clear how the safety button works and how the safety button stops the operator from increasing the power of the engine. In addition, it is not clear how the lever 12 controls the power of the power tool. It appears that the lever 12 only controls the speed of the engine not the power of the power tool. Furthermore, “the power or the engine” lack antecedent basis. In claims 5, 7, and 9, the phrase “the lever or levers and/or button or buttons and related components” is not clear. It is not clear what encompasses the levers and/or buttons and related components. It is not clear what is considered to be related components. It should be noted that all the components of the handle or the power tool are considered to be related components, since they are related to the button or the lever at least in one way. Regarding claims 7 and 9, “the lever, button or component turn around the pin (25)” and “the lever or levers and/or button or buttons and related components are turning around the separate metallic or plastic pin” is not clear. As stated above, it is not clear what encompasses the related components of the levers or the buttons. In addition, only one lever or one button can turn around the pin. Therefore, it is not clear how more levers or buttons can turn around a single pin. Regarding claim 7, the term “a keyhole-shaped” is indefinite as

it is not clear what structure the term encompasses. To what extend must an element look like a key-hole in order to be considered as a "key-hole-shaped." It should be noted that the keys have different shapes and keyholes also have different shapes. Therefore, there is no common shape for all the keyholes.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-5 and 9, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable Zerrer (4,761,939) in view of Lowe et al. (5,738,064), hereinafter Lowe.

Regarding claim 1, Zerrer teaches a handle 10 for a handheld engine powered tool 1 including at least a lever or a button 11, 12 for controlling the power of the tool 1. Zerrer also teaches that the handle is made of at least two handle sections 16, 17. Zerrer also teaches that the lever or the button 11, 12 is secured in only one of the handle sections 16. See Fig. 1-4 and col. 2, lines 22-65 in Zerrer. Zerrer does not explicitly teach that the handle sections 16, 17 are permanently jointed together. However, the use of handle sections that permanently joined together is well known in the art such as taught by Lowe. Lowe teaches a portable power tool 10 including a handle 36 for housing at least a button or a lever 38, 40, 42 for controlling the power of the tool. Lowe also teaches that the handle is made of plastic and at least two sections. Lowe also teaches that the two sections of handle can be vibrationally welded together or can be joined together by any suitable means such as mechanical fasteners

or adhesive. See Figs. 1-12 and col. 5, lines 5-10 in Lowe. It would have been obvious to a person of ordinary skill in the art to join the handle sections together in Zerrer's tool by welding, as taught by Lowe, in order to produce strong and air tight joints. In addition, it would have been obvious to a person of ordinary skill in the art to join the handle sections in Zerrer's tool together by welding or adhesive instead of fasteners, since Lowe teaches that the handle sections can be joined together by either welding or fasteners and welding can replace the fasteners and fasteners can replace welding.

Regarding claim 2, Zerrer teaches everything noted above including that the handle is provided with a lever 11 and a button 12.

Regarding claim 3, Zerrer, as modified above, teaches everything noted above including that the handle sections 36 are joined together either by welding or gluing. See page 5, lines 5-10 in Lowe.

Regarding claims 4, 5, and 9, Zerrer teaches everything noted above including that the lever 11 controls the power or engine and a safety button 12 that stops the power to the engine if the safety button is pressed. Zerrer also teaches that the lever 11 is secured to the handle section 16 via a support member 34. See Fig. 2 in Lowe. Zerrer also teaches that the lever and its related components is secured to the handle section 16 by a separate metallic pin 34 pressed into a prepared opening in the handle section 16 so that lever 11 and related components are turned around the metallic pin.

Comment

12. It is noted that claims 6-8 and 10 have not been rejected over prior art. However, in view of issues under 35 U.S.C. 112, second paragraph, and the objection to the specification

under 37 CFR 1.71 and the drawing objections, the allowability of the claimed subject matter cannot be determined at this time.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jong (2003/0088987), Ashfield (2004/0098869), Wolf et al. (5,233,945), Wieland et al. (4,079,708), Hoppner (5,960,549), and Ohsawa et al. (6,871,623) teach a handheld powered tool including handle having at least a lever or a button.

14 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

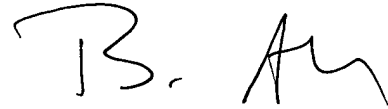
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (too-free).

Application/Control Number: 10/532,353
Art Unit: 3724

Page 10

GA/ga

May 11, 2006

A handwritten signature in black ink, appearing to read "B. Ashley". The signature is fluid and cursive, with the first letter of the last name being a large, stylized 'A'.

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER